

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

STEPHEN WAYNE NORWOOD,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-05-1317-HE
)	
UNKNOWN OFFICERS, FEDERAL)	
TRANSFER CENTER,)	
)	
Defendants.)	

ORDER


Plaintiff, appearing pro se, brings this civil rights action pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Bana Roberts who issued her Report and Recommendation, recommending that the complaint be dismissed without prejudice for failure to exhaust administrative remedies. In addition, Magistrate Judge Roberts recommended that the dismissal count as one strike pursuant to 28 U.S.C. §1915(g), after an appeal or a waiver of the right to appeal.

Plaintiff has not filed an objection to the Report and Recommendation. Therefore, further review of the issues contained therein is waived. United States v. One Parcel of Real Prop., 73 F.3d 1057, 1059-60 (10th Cir. 1996). See 28 U.S.C. § 636(b)(1)(c); LCvR72.1(a). For this reason, and for the reasons contained in the Report and Recommendation, the court concludes the complaint should be dismissed without prejudice for failure to exhaust administrative remedies.

Accordingly, the Report and Recommendation is **ADOPTED** in its entirety. Plaintiff's complaint is **DISMISSED** without prejudice and the dismissal should count as one strike against plaintiff after an appeal or a waiver of the right to appeal. See Jennings v. Natrona County Det. Ctr. Med. Facility, 175 F.3d 775, 780 (10th Cir. 1999) (concluding that a district court's dismissal should not be counted as a strike before the litigant has exhausted or waived his opportunity to appeal).

IT IS SO ORDERED.

Dated this 28th day of March, 2006.



JOE HEATON
UNITED STATES DISTRICT JUDGE